

## Message Text

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ACTION IO-14

INFO OCT-01 AF-10 ISO-00 ARA-10 EA-10 EUR-12 NEA-10

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R 301717Z AUG 77

FM USMISSION GENEVA

TO SECSTATE WASHDC 734

INFO USMISSION USUN NEW YORK

AMEMBASSY MONROVIA

LIMITED OFFICIAL USE GENEVA 7429

EO 11652:IN/A

TAGS: SHUM

SUBJ: SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION  
OF MINORITIES--AUGUST 26--AGENDA ITEM 15: HUMAN RIGHTS  
AND SCIENTIFIC IAND TECHNOLOGICAL DEVELOPMENTS.

1. DURING A.M. SESSION, MME. ERICA IRENE DAES, SPECIAL  
RAPPORTEUR ON SUBJECT AGENDA ITEM, MADE PROGRESS REPORT  
ON HER CONTINUING RESEARCH. (DOC. E/CN.4/SUB.2/L.627 AND  
DOC. E/DN.4/SUB.2/L.642/ADD.1-5). MME. DAES' PRESENTATION  
CENTERED ON THE USE, MISUSE AND ABUSE OF POWER BY AUTHORI-  
TIES, ALONG WITH CHAPTERS ON REMEDIES AVAILABLE TO INDIVI-  
DUALS AGAINST UNLAWFUL AND ARBITRARY RESTRICTIONS BY THE  
STATE. PORTIONS OF THE STUDY ARE BASED ON BROAD INTERPRE-  
TATIONS OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS; RELE-  
VANT ARTICLES OF THE INTERNATIONAL COVENANTS; REPLIES FROM  
GOVERNMENTS AND THE CONSTITUTIONS OF "FREEDOM-LOVING  
COUNTRIES." DURING THE COURSE OF HER PRESENTATION. DAES  
CITED THE NEW USSR CONSTITUTION AS PROVISING SAFEGUARDS FOR  
ITS CITIZENS AND NOTED THAT MILITARY GOVERNMENTS IN SOME  
CASES PROTECTED THE RIGHTS OF INDIVIDUALS.

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2. THE SPECIAL RAPPORTEUR STATED THE UNIVERSAL DECLARATION  
AND THE HUMAN RIGHTS COVENANTS CONTAIN TWO SPECIFIC CONDI-  
TIONS WHICH CONSTITUTE POSITIVE OBLIGATIONS FOR THE STATE  
WHEN IMPOSING RESTRICTIONS ON HUMAN RIGHTS: (1) THE LIMITA-  
TION MUST BE LAWFUL; AND(2) THE LIMITATION MUST BE NECESSARY  
IN A DEOMCRATIC SOCIETY. EVERY FREEDOM, SHE SAID, CARRIED

WITH IT THE CORRESPONDING RESPONSIBILITY FOR THE INDIVIDUAL WHICH MAKES FREEDOM AMENABLE TO SOCIAL CONTROL. ACCORDING TO MME. DAES, THE FREEDOM AND RESPONSIBILITY OF THE INDIVIDUAL AND THE POWER AND RESPONSIBILITY OF THE STATE HAVE CREATED IN DEMOCRATIC SOCIETIES A COMPLEX POLITICAL, SOCIAL AND LEGAL PROBLEM WHERE A DELICATE BALANCE BETWEEN THE TWO IS REQUIRED.

3. IN MODERN SOCIETIES, MME. DAES CONTENDED THAT IT IS INEVITABLE THAT LEGISLATURES SHOULD DELEGATE TO EXECUTIVES CERTAIN POWERS TO LEGISLATE, SUBJECT TO CONTROLS. IN EMERGENCY SITUATIONS IT IS OFTEN NECESSARY TO GRANT THE EXECUTIVE WIDE POWERS TO ADOPT DECREES. THE PROBLEM IS TO DEVISE MEANS ALLOWING THE LEGISLATURE TO CONTROL THE EXECUTIVE IN EXERCISING DELEGATED POWERS.

4. COMMENTS ON MME. DAES' REPORT WERE FAVORABLE, HOWEVER, MR. SEKYIAMAH (GHANA) SPEAKING ABOUT SAFEGUARDING HUMAN RIGHTS UNDER MILITARY REGIMES STRESSED THAT SOME REGIMES HAD NOT DEVELOPED HUMAN RIGHTS SAFEGUARDS. HE STATED THAT WAYS FOR A SYSTEM OF CHECKS AND BALANCES HAD TO BE FOUND TO PROTECT HUMAN RIGHTS UNDER MILITARY RULE AND URGED MME. DAES TO LOOK INTO THE ROLE OF MILITARY TRIBUNALS AND THE RESPECT OF HABEUS CORPUS. THIS WAS SUPPORTED BY MARC SCHREIBER (BELGIUM). MR. CRISTESCUI(ROMANIA) RECOMMENDED THAT THE SPECIAL RAPPORTEUR GIVE CONSIDERATION TO THE LIMITED OFFICIAL USE

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SOVEREIGNTY OF THE STATE AND THE PRINCIPLE OF NON-INTERVENTION IN INTERNAL AFFAIRS OF A STATE. HE ALSO SUGGESTED THAT SHE CONSIDER, IN FUTURE DRAFTS, THE ASPECTS OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF PEOPLE UNDER THE "NEW INTERNATIONAL ECONOMIC ORDER." VANDEN HEUVEL

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## Message Attributes

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